

sex, age, national origin, handicap or familial status.

(i) The accomplishment of this objective shall not be hampered by requiring the submission of a formal complaint of discrimination. A suspected discriminatory act, with or without the filing of a formal complaint, is a valid basis for investigation and, if discrimination is substantiated, imposition of restrictive sanctions.

(ii) On substantiation that an agent practiced discrimination, restrictive sanctions shall be imposed for a minimum of 180 days.

(iii) The fact that Public Law 90-284, 42 U.S.C. 1982, and Public Law 100-430 may or may not provide a remedy in a given case of discrimination affecting DoD personnel does not relieve a commander of the responsibility to ensure equal treatment and equal opportunity for such personnel or to impose restrictive sanctions against the agent and/or facility, when appropriate.

(iv) Military installations shall develop information programs to apprise Service members of the DoD policy and program for equal opportunity in off-base housing. Commanders should use local community resources, such as civil rights organizations, religious and service groups, and local information media, in support of their programs.

[55 FR 6248, Feb. 22, 1990. Redesignated and amended at 56 FR 32964, July 18, 1991]

#### § 192.5 Responsibilities.

The *Secretaries of the Military Departments* shall:

(a) Ensure nondiscrimination in referring DoD personnel to off-base housing facilities.

(b) Continue efforts (as described in DoD 4165.63-M<sup>2</sup> to identify and solicit nondiscriminatory assurances for housing facilities within the commuting area, which are considered to be suitable for occupancy by Service members.

(c) Ensure that an office and staff required by DoD 4165.63-M are available in conjunction with the cognizant staff judge advocate or other legal authority to advise Service members on the following:

(1) The procedures in this part.

<sup>2</sup>See footnote 1 to § 192.4.

(2) The application of Public Law 90-284, 42 U.S.C. 1982, and Public Law 100-430 in specific situations.

(3) The rights of individuals to pursue remedies through civilian channels, without recourse and in addition to the procedures prescribed in this part, including the right to:

(i) Make a complaint directly to the Department of HUD and/or to the Department of Justice (DoJ) in the United States.

(ii) Bring a private civil action in any court of competent jurisdiction.

(d) Periodically review off-base housing procedures and policies to ensure effectiveness and compliance with this part. (Appendix A to this part is a checklist to help commanders with this review.)

(e) Cooperate with other Government Agencies investigating housing discrimination complaints filed by Service members.

(f) Ensure that each Military Service reports any housing discrimination cases and their results in the Annual Military Equal Opportunity Assessment Report required by DoD Instruction 1350.3.

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#### § 192.6 Procedures.

(a) Appendix B to this part contains the detailed procedures for assisting Service members, investigating housing complaints, and reporting requirements for housing discrimination complaints.

(b) The complaint and investigative report required in section B., appendix B to this part is exempt from formal approval and licensing under DoD 7750.5-M.<sup>3</sup>

[55 FR 6248, Feb. 22, 1990. Redesignated and amended at 56 FR 32965, July 18, 1991]

#### APPENDIX A TO PART 192—CHECKLIST FOR COMMANDERS

A. Are all assigned personnel informed of the Equal Opportunity in Off-Base Housing Program requirements before obtaining housing off base?

B. Is there an effective information program ensuring equal opportunity in off-base housing information program?

<sup>3</sup>See footnote 1 to § 192.4.

C. Are community resources being used to support the equal opportunity in off-base housing information program?

D. Are housing discrimination complaints being processed within the required time?

E. Are complainants being informed in writing of the results of housing discrimination inquiry and/or investigating actions?

F. Are housing surveys being conducted periodically to obtain new listings?

G. Are restrictive sanctions being imposed immediately for a minimum of 180 days on agents found to be practicing discrimination?

H. Are the services of command representatives provided to assist applicants in their search for housing?

I. Are HHS personnel and equal opportunity personnel aware of and sensitive to housing problems encountered by DoD personnel?

J. Are equal opportunity in off-base housing reports being submitted accurately and on time?

#### APPENDIX B TO PART 192—PROCEDURES AND REPORTS

##### *A. Off-Base Housing Procedures*

DoD personnel seeking off-base housing shall be processed as follows:

1. Seen by an HRS when available (optional for DoD civilian personnel).

2. Provided assistance in seeking temporary and permanent off-base housing, as follows:

a. Counseling on the equal opportunity in off-base housing program with particular emphasis placed on reporting any indication of discrimination against DoD personnel in their search for housing.

b. Counseling and personal assistance shall include the following services:

(1) Offering to check by telephone the availability of selected listings. A record shall be made and retained for future reference of the date, time, and nature of any conversation confirming the availability of a facility. The race, color, religion, sex, national origin, handicap, or familial status of the applicant shall not be divulged. Caution must be exercised to ensure that a pattern of “confirmation only for minorities” does not develop.

(2) Offering the services of a command representative (such as a unit sponsor or other designated person, when available) to accompany and assist the applicant in the search for housing.

(3) Explaining various discriminatory methods that may be employed by agents. For instance, an agent may arbitrarily refuse to accept or consider the applicant as a tenant, falsely indicate the unit sought has been rented to another applicant, or refuse to make the unit available under the same

terms and conditions as are ordinarily applied to applicants for the facilities. In such instances the following shall apply:

(a) The agent shall be queried on the reasons why the unit is not available. After all reasonable steps have been taken to ascertain whether any valid nondiscriminatory reason can be shown for the agent’s rejection of the applicant, and if there appears to be no such reason, a reasonable effort shall be made to persuade the agent to make the unit available to the applicant.

(b) The incident shall be reported immediately by the command representative and the applicant to the HRS for appropriate command action.

##### *B. Complaint Procedures—United States*

Commanders shall ensure that all DoD personnel are informed of the scope and provisions of the DoD Equal Opportunity in Off-Base Housing Program and advised to report immediately to the HRS (when available) any form of discrimination encountered when seeking housing within a Civilian Community. Incidents should be reported to base agencies or command representatives when an HRS is not available (i.e., equal opportunity officer, unit commander, supervisor). A verbal or written statement of discriminatory policy by an agent is considered to be an act or incident of discrimination, and the investigative procedures outlined in this appendix shall be followed.

1. *Inquiry into Complaint.* Complaints of off-base housing discrimination must receive prompt attention. An inquiry into the complaint shall begin within 3 working days after receipt of the complaint. The inquiry may be informal, but must be detailed sufficiently to determine if discrimination occurred. Upon receipt of a discrimination complaint, the HRS (if there is no HRS, a command designated representative) shall take the following action:

a. Immediately notify the commander.

b. Promptly interview the complainant to determine the details and circumstances of the alleged discriminatory act.

c. Immediately telephone or visit the facility and/or agent concerned, if the complaint is received shortly after the time of the alleged act and it concerns the change in availability of a vacancy (i.e., “just rented,” etc.). Attempt to determine if a vacancy exists without making reference to the complaint received. Request the commander to authorize the use of verifiers, as necessary. (See this appendix, subsection B.2.)

d. Advise the complainant of the provisions and procedures in this Instruction and of the right to pursue further actions through HUD, DoJ, and local or State agencies. Coordinate efforts with the Office of Judge Advocate or other cognizant legal counsel to determine